



DEPARTMENT OF HOMELAND SECURITY

**U.S. Customs and Border Protection**

**19 CFR Part 4**

**[CBP Dec. 22-14]**

**RIN 1651-AB41**

**Vessel Repair Duties for Vessels Entering U.S. Ports**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security (DHS).

**ACTION:** Final Rule.

**SUMMARY:** This rule amends U.S. Customs and Border Protection (CBP) regulations to streamline the vessel repair entry process by extending the timeframe from 90 days to 150 days for vessel owners, masters, or authorized agents (“vessel operators”) to provide completed vessel repair entries and to apply for relief from assessment of those vessel repair duties. Because CBP is extending the timeframe from 90 days to 150 days, CBP is also eliminating provisions that allow for requests for an additional 30-day extension to submit all of the relevant evidence as those extensions are no longer necessary.

**DATES:** This final rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** W. Richmond Beevers, Chief, Cargo Security, Carriers, and Restricted Merchandise Branch, Regulations and Rulings, U.S. Customs and Border Protection, at 202-325-0084 or [wiley.r.beevers@cbp.dhs.gov](mailto:wiley.r.beevers@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466), purchases for repairs or repairs made to certain vessels while outside the United States are subject to declaration, entry, and payment of ad valorem duty upon vessel arrival in

any port of the United States. Duties owed for vessel repairs made in a foreign country apply to all vessels documented under U.S. law that engage in foreign or coasting trade, as well as those intended to be employed in such trade. 19 U.S.C. 1466(a). The statute also specifies the situations in which vessel operators may be relieved from paying such duties.<sup>1</sup>

Section 4.14 of title 19 of the Code of Federal Regulations (19 CFR 4.14) implements 19 U.S.C. 1466. Section 4.14(a)(1) requires vessel operators to declare, enter, and be subject to payment of duty for vessel repair purchases or repairs made to vessels while outside of the United States upon vessel arrival to the United States or Puerto Rico. The duties owed on these repairs and purchases are based on the actual foreign cost of the vessel repair or expenditure. 19 CFR 4.14(a)(1). Certain foreign vessel repair expenditures are not subject to declaration, entry, or duty at all. *See* 19 CFR 4.14(a)(2)(i)-(iii). Some expenditures may not require duty payments but must still follow declaration and entry procedures. *See* 19 CFR 4.14(a)(3), (h)(1)-(4).

Upon arrival, vessel operators must declare and enter all foreign repairs or related expenses to U.S. Customs and Border Protection (CBP) on CBP Form 226, or an electronic equivalent, to be processed by CBP's Vessel Repair Unit (VRU) in New Orleans, Louisiana ("vessel repair entry"). *See* 19 CFR 4.14(d), (e), (g). The vessel repair entry must include all foreign voyage expenditures for equipment, parts of equipment, repair parts, materials, and labor. 19 CFR 4.14(e). The regulations currently require a vessel operator to submit a completed vessel repair entry within 90 days of vessel arrival into the United States. 19 CFR 4.14(f). A completed vessel repair entry must contain evidence of the cost of each foreign repair or related expense. *Id.* The

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<sup>1</sup> Vessel operators may be relieved from paying duties for foreign repairs to vessels when: materials purchased and repairs made to vessels outside the United States were a result of damage caused by inclement weather or other casualties; purchased materials were made in the United States and installed by U.S. residents or the vessel's crew; or purchased materials were used for dunnage cargo, packing, erection of temporary bulkheads, or in preparation for the carrying of liquid cargo. 19 U.S.C. 1466(d).

vessel operator can request additional time from the VRU to file a completed vessel repair entry. *Id.* The VRU may grant, and in practice almost always does grant, a 30-day extension period for vessel operators to submit the completed entry.<sup>2</sup> If additional time is needed, the Cargo Security, Carriers, and Restricted Merchandise Branch (CCR) at CBP Headquarters may grant, and in practice almost always does grant, a second extension.<sup>3</sup> Normally, in this instance, the CCR will grant an additional 30-day extension after the first extension. Therefore, in practice, vessel operators have a total of 150 days to submit a completed vessel repair entry supported by evidence showing the cost of each foreign repair or expense.

Before the vessel may depart from a U.S. port, the vessel operator must also submit the estimated cost of duties, or evidence of a bond, for all potential repairs or expenses declared in the vessel repair entry. 19 CFR 4.14(c). The current regulations set forth the circumstances in which the vessel operator may be relieved from assessment of these duties. Such relief is available when: (i) the expenditure is not considered to be a repair or purchase within the terms of 19 U.S.C. 1466 or as determined under judicial or administrative interpretation; (ii) foreign repairs or expenditures were the result of damage caused by inclement weather or other casualties; (iii) materials used for repair were made in the United States and installed by U.S. residents or the vessel's crew; (iv) materials were used for the purpose of providing dunnage for the packing of cargo, erection of temporary bulkheads, or in preparation for the carrying of liquid cargo; (v) for vessels that continuously remained outside the United States for two years, expenditures were made after the first six months of their absence; (vi) expenditures were made for

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<sup>2</sup> Based on communication with the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022. A subject matter expert stated that the VRU nearly always approves the 30-day extension requests subject to timeliness of such request. In 2021-2022, VRU approved 100% of all requests for extensions.

<sup>3</sup> Based on communication with the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022. A subject matter expert stated that vessel operators are sophisticated users understanding what is required and as a result, CCR nearly always approves a second extension request subject to the timeliness of the request. In 2021-2022, CCR approved 100% of all second requests for extensions.

Lighter Abroad Ship (LASH) operations; (vii) spare repair parts or materials were certified for use on a cargo vessel, if duty was previously paid under the appropriate U.S. commodity classification; and (viii) spare repair parts were necessarily installed prior to first entry into the United States, if duty was paid under the appropriate U.S. commodity classification. 19 U.S.C. 1466(a), (d), (e), (h); 19 CFR 4.14(h)(1)-(3).

Under the current regulations, the operator must apply for relief from these duties within 90 days of the vessel's arrival into the United States. 19 CFR 4.14(i). Similar to the timeline for submitting a completed vessel repair entry, the VRU may grant, and in practice almost always does grant, a 30-day filing extension, and the CCR may grant an additional filing extension for vessel operators to apply for relief from assessment of such duties.<sup>4</sup> The CCR almost always grants an additional 30-day extension, which results in an additional 60 days for vessel operators to file for relief from duty payment after the initial 90-day timeline expires. Therefore, in practice, current procedures almost always allow vessel operators a total of 150 days to file for relief from assessment of vessel repair duties.

Although both the VRU and CCR rarely deny filing extensions for vessel operators seeking to submit completed vessel repair entries or to apply for relief from assessment of vessel repair duties, the two offices are still faced with the administrative burden of processing extension requests. For instance, on average, the CCR processes 42 vessel repair extension requests annually. The VRU processes annually over three times this number of extension requests.<sup>5</sup> The hours expended on extension requests create an unnecessary burden on both CBP and vessel operators filing such requests with no benefit to CBP, vessel operators or the public by maintaining the extensions<sup>6</sup>.

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<sup>4</sup> See 19 CFR 4.14(f) for extension procedures.

<sup>5</sup> The VRU processes on average 152 extension requests annually. See Part IV, Table 1. Time Burden to Complete Extension Requests.

<sup>6</sup> Based on communication with the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022, subject matter experts stated that the only reason VRU or CCR had ever denied a request for an

## II. Discussion of Regulatory Changes

CBP is streamlining the vessel repair entry process under 19 CFR 4.14 by amending the timeframe to submit complete vessel repair entries with supporting evidence for the costs of each repair and to apply for relief from assessment of vessel repair duties. This rule will also eliminate the need for filing extension requests. In particular, paragraphs (f) and (i) are amended to eliminate provisions allowing for extensions and to change the timeline for document submission from 90 to 150 days. These amendments allow the same timeframe as the current practice, which provides for a 90-day deadline and the potential to file two extensions, for a total of 150 days. Accordingly, the amendments will simplify the process and alleviate unnecessary burdens placed on CBP to process extension requests and on vessel operators to file such requests. The amendments are described below.

### *A. Evidence for Cost of Repair*

Paragraph (f) requires vessel operators to submit to CBP completed vessel repair entries with supporting evidence of the final cost of each foreign repair or expenditure within 90 days of the vessel's arrival. 19 CFR 4.14(f). The vessel operator is permitted to submit initial or interim cost estimates if sufficient evidence to show final costs or expenditures is not yet available, but must submit a completed entry within 90 days of the vessel's arrival. 19 CFR 4.14(f). If additional time is needed to submit completed vessel repair entries, vessel operators are required to submit to the VRU a written request explaining their need for filing extensions before the 90-day timeline expires. 19 CFR 4.14(f). Paragraph (f) allows the VRU to grant a 30-day extension and the CCR to grant a second extension. 19 CFR 4.14(f). Current practice allows vessel operators a total of 150 days to submit vessel repair entries because both the VRU and CCR rarely deny

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extension was an untimely request which occurred one time with VRU over the last several years. Vessel operators are sophisticated users who understand what is required to obtain an extension.

extension requests. In practice, the CCR will grant a second 30-day extension.

Therefore, the filing extensions provide vessel operators with an additional 60 days to file completed vessel repair entries. The amendment to paragraph (f) thus removes the provision regarding extensions and provides 150 days from vessel arrival for operators to submit a completed vessel repair entry, as opposed to the existing 90-day deadline and the possibility of filing for two extensions.

*B. Application for Relief from Assessment of Vessel Repair Duties*

Paragraph (i) requires vessel operators to apply for relief from assessment of vessel repair duties within 90 days of vessel arrival for the opportunity to qualify for relief from assessment of these duties. 19 CFR 4.14(i). An Application for Relief must clearly state the legal basis for granting relief for one of the reasons specified in paragraph (h). Although the Application for Relief is not required to be submitted in any particular format, it must certify that all repair operations performed aboard the vessel during the one-year period prior to the current submission have been declared and entered and must be supported by certain evidence outlined in paragraph (i)(1)(i)-(vi) and (i)(2).<sup>7</sup> 19 CFR 4.14(i)(1). Paragraph (i) allows the VRU to grant a 30-day extension and the CCR to grant a second extension for vessel operators to file for relief from assessment of vessel repair duties. Similar to the procedure for vessel repair entries in paragraph (f), the CCR normally grants a second 30-day extension. Therefore, current practice allows vessel owners 150 days to file an Application for Relief from assessment of vessel repair duties, because, as a practical matter, the VRU and CCR usually grant all extension

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<sup>7</sup> Each Application for Relief must include copies of: (i) itemized bills, receipts, and invoices for items shown in 19 CFR 4.14(e); (ii) photocopies of relevant parts of vessel logs, as well as of any classification society reports which detail damage and remedies; (iii) a certification by the senior officer with personal knowledge of all relevant circumstances relating to casualty damage; (iv) a certification by the senior officer with personal knowledge of all relevant circumstances relating to foreign repair expenditures; (v) a certification by the master that casualty-related expenditures were necessary to ensure the safety and seaworthiness of the vessel in reaching its U.S. port of destination; and (vi) any permits or other documents filed with or issued by any U.S. Government agency other than CBP regarding the operation of the vessel that are relevant to the request for relief. 19 CFR 4.14(i).

requests. The amendments therefore remove the extension provisions and expand the original 90-day timeline to 150 days from vessel arrival for owners to apply for relief from assessment of vessel repair duties.

#### **IV. Statutory and Regulatory Analysis**

##### *A. Inapplicability of Prior Notice and Delayed Effective Date*

According to section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), rulemaking generally requires prior notice and comment and a 30-day delayed effective date, subject to specified exceptions. Pursuant to 5 U.S.C. 553(b)(3)(A), the prior notice and comment and delayed effective date requirements do not apply when agencies promulgate rules concerning agency organization, procedure, or practice. In addition, section 553(d) of the APA requires that a final rule have a 30-day delayed effective date. The APA, however, provides exceptions from the prior notice and public comment requirement and the delayed effective date requirements, when an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest.

This rule does not require prior notice and comment because it relates to agency organization, procedure, or practice. Specifically, the final rule merely updates the regulations to simplify CBP's procedures and does not substantially change any parties' right to file evidence for the cost of vessel repair or to apply for relief from assessment of vessel repair duties. Moreover, the new amendment seeks to codify what is done in practice.

Current practice almost always provides vessel operators with 150 days to file the supporting evidence for repairs and to apply for relief from assessment of duties, which the new amendment will still allow. Current regulations allow 90 days from vessel arrival to file these documents. Upon the request of a vessel operator, the VRU and CCR usually grant two 30-day filing extensions, for a total of an additional 60 days. The final

rule will eliminate the extension request procedure and allow for a total of 150 days without extensions, rather than an initial 90 days with two 30-day extensions, to file these documents. As a result, this rule merely streamlines the vessel repair entry process by eliminating the need for vessel owners to file extension requests and by providing the same timeframe for these documents to be filed.

Additionally, CBP finds that prior notice and comment are unnecessary and that good cause exists to issue this rule effective upon publication. Prior notice and comment are unnecessary because the rule does not substantively alter the underlying rights or interests of vessel operators and streamlines the process for both vessel operators and CBP.

#### *B. Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This amendment is not a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this regulation. In summary, CBP expects there to be a combined total savings of approximately \$55,209 annually to the Federal Government and vessel owners as a result of this rule. Following is analysis of this estimated cost savings.

Purchases for repairs or repairs made to certain vessels while outside the United States are subject to entry and payment of duty. This amendment to 19 CFR 4.14 extends the timeframe for U.S. vessel operators to provide a completed vessel repair entry to CBP and to apply for relief from the assessment of duty usually required for vessel repairs occurring in a foreign country to reflect current CBP practice. Currently, vessel operators



have 90 days to submit a completed vessel repair entry with supporting evidence for each repair. In certain circumstances, vessel operators can apply for relief from assessment of these duty amounts, if they provide the appropriate documentation. Vessel operators are likewise given 90 days from vessel arrival into the United States to apply for relief.

In both scenarios, current regulations, 19 CFR 4.14(f), (i), allow vessel operators to request extensions to complete vessel repair entries and apply for relief from duty assessment. Vessel operators can request two separate extensions, allowing them, in practice, a total of 150 days to provide all the necessary information to complete their vessel repair entries or Applications for Relief. This amendment to 19 CFR 4.14 changes the deadline from 90 to 150 days and eliminates the requirement that vessel operators request extensions. This amendment would obviate the need for vessel operators to make extension requests and would eliminate all costs associated with these requests. CBP estimates that this amendment would provide an overall savings to the U.S. economy by taking away the time burden associated with the extension requests for both vessel repair entries and relief from duty payments on vessel repairs made abroad.

Under the current regulations located at 19 CFR 4.14, when certain vessels undergo repairs outside of the United States, the value of the foreign repairs may be subject to duties when these vessels re-enter the United States or Puerto Rico.<sup>8</sup> Upon re-entry to a U.S. or Puerto Rico port, vessel operators are required to submit a vessel repair declaration and entry documentation, including an estimated duty payment (or produce evidence of a bond), before the vessel can be released from that U.S. port of entry. Specifically, the values of foreign parts and foreign repairs made to certain vessels at foreign shipyards are subject to duty upon re-entry to a U.S. or Puerto Rico port. The duty amount is based on the actual foreign costs to the vessel operator for purchases of

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<sup>8</sup> According to 19 CFR 4.14(a), duties owed for vessel repairs occurring outside the United States apply to all vessels documented under U.S. law that engage in foreign or coasting trade, as well as those intended to engage in those trades, under CBP interpretations.

articles used in repairs and labor costs for repairs made outside the United States by foreign shipyards and foreign labor. According to existing regulations, for articles previously imported into the United States and then exported for use in foreign vessel repairs, vessel owners are required to pay duties. The duties owed are based on the foreign purchase price of the articles when initially imported into the United States.

Vessel operators submitting vessel repair entries must provide supporting documentation validating the costs of all foreign parts and repairs. If vessel operators do not have all of the required information at the time of entry, they can file an incomplete vessel repair entry as long as they can provide complete evidence to the VRU within 90 days of vessel arrival. Vessel operators must provide the final foreign cost of articles used and any repairs within this 90-day deadline to complete a vessel repair entry. However, vessel operators may be granted an extension to complete a vessel repair entry if they are unable to before the deadline. Upon the vessel operator's submission of a written request justifying the need for additional time, the VRU may grant a 30-day extension. As discussed above, in practice, the VRU nearly always approves requests made by vessel operators for a 30-day extension.<sup>9</sup> A second extension may also be granted beyond the initial 30-day extension. This second request must be approved by the CCR.<sup>10</sup> If both requests for extensions are granted, vessel operators, in practice, are given a total of 150 days to provide complete evidence of costs for vessel repair entries. If all cost evidence is not provided by the specified deadlines, the VRU can refer the matter to U.S. Immigration and Customs Enforcement to acquire the information needed to complete the vessel repair entry.

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<sup>9</sup> Based on communication with the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022. A subject matter expert stated that the VRU nearly always approves the 30-day extension requests, only 1 request had been denied in the past several years and denial was based on a late submission well after the deadline.

<sup>10</sup> CBP notes that these second extension requests for vessel repair entries are rarely denied. Data received from the Cargo Security, Carriers, and Restricted Merchandise Branch on October 28, 2020. A subject matter expert stated that the CCR nearly always approves a second extension request.

In the current regulations, there are limited circumstances under which vessel operators can be granted relief from paying the duties on foreign articles and foreign repairs.<sup>11</sup> In these cases, vessel operators may apply for relief from assessment of the duties. However, Applications for Relief from assessment of vessel repair duties require a significant amount of documentation to support such claims for relief.<sup>12</sup> These applications must provide information regarding all vessel repair operations performed aboard that vessel within the 12-month period prior to the most current vessel repair entry. As with filing incomplete vessel repair entries, vessel operators likewise have 90 days from vessel arrival at a U.S. port to file these Applications for Relief. Vessel operators can similarly request an extension to the initial 90-day deadline to apply for relief, assuming vessel operators can justify the need for a 30-day extension. These extension requests are comparable to the extension requests for completing vessel repair entries which include: waiting on receipts, invoices, documents, certifications, surveyor reports, and third party organization reports. The VRU determines whether to grant extensions for submitting Applications for Relief, and in practice, the VRU rarely declines such requests.<sup>13</sup> In addition, vessel operators can request a second extension,

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<sup>11</sup> According to 19 CFR 4.14(h) and (i), there are a few circumstances where vessels can qualify for duty relief. These include but are not limited to: matters involving vessels normally subject to 19 U.S.C. 1466(a), (d), (e), or (h). These situations include vessels that continuously remain outside the United States for two years or longer; expenditures on LASH barges; relief on certain spare repair parts or materials; and relief on certain spare parts necessarily installed on a vessel prior to their first entry into the United States.

<sup>12</sup> According to 19 CFR 4.14(i), each Application for Relief should include the following documentation: itemized bills, receipts, and invoices for items shown in 19 CFR 4.14(e); the cost of items for which a request for relief is made must be segregated from the cost of the other items listed in the vessel repair entry; photocopies of relevant parts of vessel logs, as well as of any classification society reports which detail damage and remedies; a certification by the senior officer with personal knowledge of all relevant circumstances relating to casualty damage (time, place, cause, and nature of damage); a certification by the senior officer with personal knowledge of all relevant circumstances relating to foreign repair expenditures (time, place, and nature of purchases and work performed); a certification by the master that casualty-related expenditures were necessary to ensure the safety and seaworthiness of the vessel in reaching its U.S. port of destination and any permits or other documents filed with or issued by any U.S. Government agency other than CBP regarding the operation of the vessel that are relevant to the request for relief.

<sup>13</sup> Based on communication with the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022; subject matter expert stated that the VRU essentially always approves the 30-day extension requests. During the past several years, only 1 request has been denied and the denial was solely due to the extension request being submitted well after the deadline.

which the CCR may grant.<sup>14</sup> If the vessel operator does not file an Application for Relief or does not provide an appropriate justification for relief, the vessel operator is responsible for the full duty amount as determined by the vessel repair entry.

This amendment changes the deadline for vessel operators to provide complete information for vessel repair entries and to submit Applications for Relief. The amendment extends the time period from 90 days to 150 days and eliminates the need for extension requests. CBP believes that extending the initial deadline will provide vessel operators additional time to provide the appropriate and accurate information. In addition, by changing the deadline to 150 days, the amendment would eliminate the necessity for vessel operators to request deadline extensions to complete vessel repair entries and Applications for Relief. CBP expects that the amendment will generate savings to both vessel operators and the Federal Government by eliminating the costs associated with completing and reviewing extension requests beyond the initial 90-day deadline in the existing regulations. CBP does not expect this amendment to impose any costs to vessel operators or the Federal Government.

**Table 1. Time Burden to Complete Extension Requests**

	Expected Annual Extension Requests	Time Burden Per Request to Vessel Operators (hours)	Annual Time Burden to Vessel Operators (hours)	Time Burden Per Request to CBP (hours)	Annual Time Burden to CBP (hours)
VRU Extension Requests	152	1	152	0.5	76
CCR Extension Requests	42	1	42	0.56	24

Vessel operators and CBP will benefit from this amendment because the extension request process is time-consuming for both the government and private parties.

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<sup>14</sup> CBP notes that these second extension requests for Applications for Relief are rarely denied. Data received from the Cargo Security, Carriers, and Restricted Merchandise Branch on April 13, 2022; subject matter expert stated that the CCR nearly always approves a second extension request.

CBP estimates that the VRU reviews approximately 152 extension requests annually, while the CCR reviews on average 42 extension requests each year.<sup>15</sup> CBP estimates the average time burden placed on vessel operators or representatives to complete a single extension request (both the initial and subsequent requests) is approximately one hour each.<sup>16</sup> Meanwhile, CBP estimates that the time burden placed on CBP to review and approve the extension requests is approximately 30 minutes (0.5 hours) to review each VRU extension request and approximately 34 minutes (0.56 hours) to review each CCR extension request.<sup>17</sup>

### Benefits from Eliminating VRU Extension Requests

Extension requests for vessel repair entries and applications for duty assessment relief are typically filed on behalf of the vessel operators by legal representatives or vessel agents. Unfortunately, CBP does not have exact data on the proportion of how many extension requests are completed by legal representatives on behalf of the vessel operators and how many are filed by vessel agents. Therefore, CBP assumes that half of all extension requests are filed by legal representatives and half are filed by vessel agents.

**Table 2. Expected Annual Savings from Eliminating VRU 30-Day Extension Requests**

	Estimated Time Burden to Vessel Operators (hours)	Estimated Time Burden to Vessel Legal Representatives (hours)	Cost to Vessel Agents	Cost to Vessel Legal Representatives	Estimated Time Burden to CBP (hours)	Cost to CBP	Total Savings
VRU Extension Requests	76	76	\$4,265	\$32,669	76	\$5,796	\$42,730

<sup>15</sup> Data provided by the Cargo Security, Carriers, and Restricted Merchandise Branch on November 9, 2020. Data obtained included the average number of extension requests reviewed by the VRU and CCR from FY 2018 – FY 2020. CBP calculated the average annual expected extension requests by looking at the annual requests reviewed in FY 2018, FY 2019 and FY 2020. The extension request numbers include both extension requests for completing vessel repair entries and applications for duty assessment relief.

<sup>16</sup> Data received from the Vessel Repair Unit on November 10, 2020. Subject matter expert's best estimate on time burden placed on vessel operators to file extension requests is approximately one hour.

<sup>17</sup> Data obtained from the Cargo Security, Carriers, and Restricted Merchandise Branch on October 28, 2020, providing an estimated time burden on CBP to review each VRU and each CCR extension request.

On average, CBP estimates that vessel operators file approximately 152 extension requests every year that are reviewed by the VRU. CBP assumes that half of these 152 requests (76) are filed by a vessel operator's legal representative and half (76) are filed by vessel agents. The expected savings to vessel operators from eliminating these extension requests is based on the estimated burden hours for half of the VRU extension requests (76 hours, 1 hour per request), multiplied by the average loaded hourly wage rate for vessel legal representatives (\$429.86). CBP determined that this is the best estimate for private lawyers hired outside of a company, because the data was obtained from an American Intellectual Property Law Association (AIPLA) study on the average hourly billing rate for lawyers. AIPLA's study surveyed intellectual property (IP) lawyers and was used in the 2017 Report of the Economic Survey. The study found the median hourly billing rate for these lawyers was \$400 in 2016 dollars, which is the most recent data available, and \$429.86 after adjustment to 2020 dollars.<sup>18</sup> To estimate the cost of filing VRU extension requests imposed on vessel agents, CBP used the estimated burden hours for half of VRU extension requests (76 hours, 1 hour per request), multiplied by the average loaded hourly wage rate for vessel operators (\$56.12).<sup>19</sup> CBP estimated that the savings each year from eliminating these extension requests to vessel agents (\$4,265) and legal representatives (\$32,669) would be approximately \$36,934.

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<sup>18</sup> American Intellectual Property Law Association. *2017 Report of the Economic Survey*. "Billable Hours, Billing Rate, Dollars Billed (Q29, Q30, Q27)." June 2017. CBP calculated the 2020 adjusted dollar amount using the percent increase in the Annual Average GDP Price Deflator (2015 = 100) between 2016 and 2020. The annual average GDP Price Deflator value in 2016 = 101.0481, the annual average GDP Price Deflator value in 2020 = 108.5904, the percent increase was estimated to be around 7.4641% ( $108.5904/101.0481 = 1.07.4641$  or 7.4641%). This percent increase was applied to the 2016 estimated hourly billing rate of \$400 for external attorneys to estimate the 2020 hourly billing rate of \$429.86 for external attorneys.

<sup>19</sup> CBP calculated this loaded wage rate by first multiplying the Bureau of Labor Statistics' (BLS) 2020 median hourly wage rate for Captains, Mates, and Pilots of Water Vessels (\$37.08) by the ratio of BLS' average 2020 total compensation to wages and salaries for Transportation and Material Moving occupations (1.5134), the assumed occupational group for captains, mates, and pilots of water vessels, to account for non-salary employee benefits. These figures are in 2020 U.S. dollars and CBP assumes an annual growth rate of 0 percent; the 2020 U.S. dollar values are equal to the 2021 U.S. dollar values.

In addition to the cost to vessel operators, the Federal Government incurs costs from reviewing VRU extension requests every year. The expected annual cost to the Federal Government associated with the review of VRU extension requests is based on the number of responses that must be reviewed (152) multiplied by the time burden to review and process each response (0.5 hours) = 76 hours. This is then multiplied by the average hourly loaded rate for other CBP employees (\$76.26) = \$5,796.<sup>20</sup> CBP thus estimates that the savings to the Federal Government from eliminating VRU requests would be approximately \$5,796 on an annual basis. Considering the combined savings to vessel operators and the Federal Government as a result of eliminating VRU extension requests, CBP estimates that this rule's annual savings is approximately \$42,730.

#### Benefits from Eliminating CCR Extension Requests

As discussed above, CBP expects that, on average, the CCR reviews about 42 requests for 30-day extensions every year. These amendments will have the effect of eliminating extension requests and their associated costs, constituting a net savings to all associated parties. CBP calculated these costs by combining the costs to vessel operators and the Federal Government for filing and reviewing these subsequent extension requests, for completing vessel repair entries, and for applying for relief from duty payments. CBP assumes that the time burden on vessel operators to file the subsequent extension requests (which are reviewed by the CCR) is one hour per extension request. Like extension requests to the VRU, CBP expects that the costs incurred by these extension requests to the CCR represent potential savings from the amendment. CBP expects that half of the 42 extension requests to the CCR (21) are completed by legal

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<sup>20</sup> Data obtained from the Cargo Security, Carriers, and Restricted Merchandise Branch on October 28, 2020. The Cargo Security, Carriers, and Restricted Merchandise Branch calculated the time burden to GS-12 litigation specialists at 30 minutes to review each VRU extension requests. CBP used its estimates for Other CBP Employees at the GS-12 Step 3 level, as the best proxy for average hourly loaded wage rate. CBP based this wage on the FY 2021 salary and benefits of the national average of other CBP positions, which is equal to a GS-12, Step 3. Source: Email correspondence with CBP's Office of Finance on September 7, 2021.

representatives on behalf of vessel operators and half (21) are completed by vessel agents.

**Table 3. Expected Annual Savings from Eliminating CCR 30-Day Extension Requests**

	Estimated Time Burden to Vessel Operators (hours)	Estimated Time Burden to Vessel Legal Representatives (hours)	Cost to Vessel Agents	Cost to Vessel Legal Representatives	Estimated Time Burden to CBP (hours)	Cost to CBP	Total Savings
CCR Extension Requests	21	21	\$1,169	\$8,955	24	\$2,354	\$12,479

CBP calculated the savings from removing the subsequent requests for 30-day extensions based on the estimated burden hours for half of the CCR extension requests (21 hours, 1 hour per request), multiplied by the average loaded hourly wage rate for vessel legal representatives equaling \$429.86).<sup>21</sup> For the second half of the CCR extension requests, which CBP assumes are filed by vessel agents, CBP used the estimated burden hours for half of the CCR extension requests (21 hours, 1 hour per request), multiplied by the average loaded hourly wage rate for vessel operators equaling \$56.12.<sup>22</sup> CBP calculated that the estimated annual savings to vessel operators by eliminating the CCR extension requests will be approximately \$10,125.

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<sup>21</sup> CBP determined this is the best estimate for private lawyers hired outside of a company and was obtained from an American Intellectual Property Law Association (AIPLA) study on the average hourly billing rate for lawyers. AIPLA's study surveyed intellectual property (IP) lawyers that were used in the *2017 Report of the Economic Survey*. The median hourly billing rate for these lawyers was \$400 in 2016 dollars, which is the most recent data available, and \$424.75 after adjustment to 2019 dollars. American Intellectual Property Law Association. *2017 Report of the Economic Survey*. "Billable Hours, Billing Rate, Dollars Billed (Q29, Q30, Q27)." June 2017. CBP calculated the 2020 adjusted dollar amount using the percent increase in the Annual Average GDP Price Deflator (2015 =100) between 2016 and 2020. The annual average GDP Price Deflator value in 2016 = 101.0481, the annual average GDP Price Deflator value in 2020 = 108.5904, the percent increase was estimated to be around 7.4641% (108.5904/101.0481 = 1.074641 or 7.4641%). This percent increase was applied to the 2016 estimated hourly billing rate of \$400 for external attorneys to estimate the 2020 hourly billing rate of \$429.86 for external attorneys.

<sup>22</sup> CBP calculated this loaded wage rate by first multiplying the Bureau of Labor Statistics' (BLS) 2020 median hourly wage rate for Captains, Mates, and Pilots of Water Vessels (\$37.08) by the ratio of BLS' average 2020 total compensation to wages and salaries for Transportation and Material Moving occupations (1.5134), the assumed occupational group for captains, mates, and pilots of water vessels, to account for non-salary employee benefits. These figures are in 2020 U.S. dollars and CBP assumes an annual growth rate of 0 percent; the 2020 U.S. dollar values are equal to the 2021 U.S. dollar values.



By eliminating the need for subsequent extension requests, the amendments will provide savings to the Federal Government, as the CCR staff would no longer need to review extension requests. The estimated annual savings from this portion of the amendment to the Federal Government is based on the number of responses that must be reviewed (42) multiplied by the time burden to review and process each response (0.5625 hours) = 24 hours multiplied by the average hourly loaded wage rate for a CBP attorney-advisor (\$98.10) = \$2,354.<sup>23 24</sup> The total savings from eliminating CCR extension requests was estimated by combining savings to both vessel operators (\$10,125) and CBP (\$2,354), which is approximately \$12,479 each year.

CBP expects the amendment will result in savings to the U.S. economy on an annual basis. CBP calculated the total savings as the combination of savings accrued by both the Federal Government and vessel operators from extending the filing deadlines to 150 days. CBP calculated the total savings by adding the expected savings to vessel operators generated by eliminating VRU extension requests (\$36,934) and CCR extension requests (\$10,125). CBP also included in total savings of the amendment, the added savings to the Federal Government generated by eliminating VRU extension requests (\$5,796) and CCR extension requests (\$2,354). CBP estimates that the overall savings to the U.S. economy from this amendment will be approximately \$55,209 each year.

Overall, CBP expects that the impact from amending the deadlines from 90 to 150 days for vessel operators to provide completed vessel repair entries and applications for

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<sup>23</sup> Data obtained from the Cargo Security, Carriers, and Restricted Merchandise Branch on October 28, 2020, providing an estimated time burden to the CCR to review the secondary extension requests. Of the 80 requests reviewed in FY 2020, the estimated time burden was about 45 hours for attorney- advisors, equivalent to about 0.5625 hours per request to review. A lack of detailed data for FY 2019 and FY 2018 prevented CBP from obtaining exact time burdens to complete the requests made during those years. Therefore, CBP used the FY 2020 average time burden per request and applied that average to the total number of requests reviewed in FY 2019 and FY 2018 to estimate the annual expected time burden associated with secondary extension requests.

<sup>24</sup> CBP based this wage on the FY 2021 salary and benefits of the national average of CBP Attorney positions. Source: Email correspondence with CBP's Office of Finance on March 18, 2022.

duty assessment relief does not result in a “significant” economic impact in any given year. After considering the impacts of the amendment, CBP expects there to be a net savings of approximately \$55,209 annually to the U.S. economy. At the same time, CBP does not expect any costs associated with this amendment.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for a rule. Since a general notice of proposed rulemaking is not necessary for this rule, CBP is not required to prepare a regulatory flexibility analysis for this rule.

### *D. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. As there is no collection of information in this document, the provisions of the Paperwork Reduction Act are inapplicable.

## **V. Signing Authority**

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

## **List of Subjects in 19 CFR Part 4**

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

### **Amendments to the Regulations**

For the reasons set forth in the preamble, CBP amends part 4 of title 19 of the Code of Federal Regulations (19 CFR part 4) as set forth below.

## **PART 4 - VESSELS IN FOREIGN AND DOMESTIC TRADES**

1. The general authority citation for part 4 and the specific authority citation for § 4.14 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1415, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

\* \* \* \* \*

Section 4.14 also issued under 19 U.S.C. 1466, 1498; 31 U.S.C. 9701.

\* \* \* \* \*

2. In § 4.14, revise paragraphs (f) and (i)(1) to read as follows:

### **§ 4.14 Equipment purchases for, and repairs to, American vessels.**

\* \* \* \* \*

(f) *Time limit for submitting evidence of cost.* A complete vessel repair entry must be supported by evidence showing the cost of each item entered. If the entry is incomplete when submitted, evidence to make it complete must be received by the VRU as identified in paragraph (g) of this section within 150 calendar days from the date of vessel arrival. That evidence must include the final cost of repairs. In the event that all final cost evidence is not furnished within 150 days, or is of doubtful authenticity, the VRU may refer the matter to U.S. Immigration and Customs Enforcement to begin procedures to obtain the needed evidence. That agency may also investigate the reason for a failure to file or for an untimely submission. Unexplained or unjustified delays in

providing CBP with sufficient information to properly determine duty may result in penalty action as specified in paragraph (j) of this section.

\* \* \* \*

(i) \* \* \*

(1) *Applications for Relief.* Relief from the assessment of vessel repair duty will not be granted unless an Application for Relief is filed with CBP. Relief will not be granted based merely upon a claim for relief made at the time of entry under paragraph (e) of this section. If relief is sought, an Application is not required to be presented in any particular format, but it must clearly present the legal basis for granting relief, as specified in paragraph (h) of this section. An Application must also state that all repair operations performed aboard a vessel during the one-year period prior to the current submission have been declared and entered. A valid Application is required to be supported by complete evidence as detailed in paragraphs (i)(1)(i) through (vi) and (i)(2) of this section. Except as further provided in this paragraph, the deadline for receipt of an Application and supporting evidence is 150 calendar days from the date that the vessel first arrived in the United States following foreign operations. Applications must be addressed and submitted by the vessel operator to the VRU and will be decided in that unit. The VRU may seek the advice of the Cargo Security, Carriers & Restricted Merchandise Branch, Office of Trade, in CBP Headquarters with regard to any specific item or issue which has not been addressed by clear precedent. If no Application is filed or if a submission which does not meet the minimal standards of an Application for Relief is received, the duty amount will be determined without regard to any potential claims for relief from duty assessment (see paragraph (h) of this section). Each Application for Relief must include copies of:

\* \* \* \*

Alejandro N. Mayorkas,  
Secretary of Homeland Security.

[FR Doc. 2022-16233 Filed: 7/28/2022 8:45 am; Publication Date: 7/29/2022]